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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,107	08/01/2003	Steven Choon Meng Lau	P-5315C1	3619
26253	7590	05/20/2005	EXAMINER	
DAVID W. HIGGET, VP AND CHIEF IP COUNSEL BECTON, DICKINSON AND COMPANY 1 BECTON DRIVE, MC 110 FRANKLIN LAKES, NJ 07417-1880			KENNEDY, SHARON E	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/633,107	LAU ET AL.	
	Examiner	Art Unit	
	Sharon Kennedy	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

Election/Restrictions

Applicant should note that the examiner is examining two inventions in this application, which is burdensome. A restriction requirement may be applied in a future office action if the burden continues to increase.

Claim Rejections - 35 USC § 102

Claims 1-23 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Schoenfeld et al., US 6,283,941. See the comments set forth in the previous office action.

Response to Arguments

Applicant's arguments filed March 7, 2005 have been fully considered but they are not persuasive. Applicant argues that Schoenfeld does not have a locking element and compares applicant's figure 7 with the Schoenfeld figure 11. Note is made of the barbs 72 pressing into the interior of the barrel. This is not persuasive because simply because it isn't shown, doesn't mean it doesn't happen. The Schoenfeld device locks the distal portion of the plunger rod part. There is no way to do this but with friction between the Schoenfeld barbs and the inner surface of the barrel, accordingly, there

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must be some contact. It is noted that applicant's claim 1 does not even state the barbs are pressed against the barrel.

Regarding comments concerning tab 110, applicant argues that the spring element urges the barbs of the locking element toward the inside surface of the barrel. However, this is not what the claim says. Claim 1 states that the spring element is to urge the barbs in a "*selected direction*." The examiner interpreted this to be a spring element which helps the locking device move in one direction and not the other, so that the plunger moves distally and not proximally. That is why tab 110 was used to anticipate the claimed third leg. Examining applicant's figure 10, third leg 68 with bends 68A and 68B; it appears that this third leg helps ease movement in the distal direction, just as the Schoenfeld tab. Further, there is no mention in the specification of what applicant's third leg does, except in [0028], which says nothing about what the spring element of the third leg does in terms of function. Finally, the examiner takes the position that the whole Schoenfeld locking device is inherently springy since this is how these things have been made since the beginning. The third leg, which the examiner interpreted to be Schoenfeld tab 110, is not the only springy thing of the Schoenfeld device. It can be the entire portion 60.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571/272-4955.

Information regarding the status of an application may be obtained by going to www.uspto.gov, clicking on "Status &IFW", entering the application number, and then clicking on one of the tabs to retrieve the appropriate information.


Sharon Kennedy
Primary Examiner
Art Unit 3762